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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,613	10/22/2001	Yosuke Seki	450100-03520	6595
20999	7590	03/08/2006	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151				SHIBRU, HELEN
		ART UNIT		PAPER NUMBER
				2616

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/016,613	SEKI, YOSUKE
	Examiner HELEN SHIBRU	Art Unit 2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 22 October 2001.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 22 October 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 10/15/2002.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 16-20 are rejected under 35 U.S.C. 101 because the claims are directed to a recording medium storing nonfunctional descriptive material.

Data structures not claimed as embodied in computer-readable media are descriptive material *per se* and are not statutory because they are neither physical “things” nor statutory processes. See, e.g. *Warmerdam*, 33 F. 3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory) and merely claiming nonfunctional descriptive material stored in a computer-readable medium does not make it statutory. See MPEP 2106.IV.B.1.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Niwa (US Pat. No. 6,255,911).

Regarding claim 1, Niwa discloses a video server which can accumulatively record a video signal reproduced by a video signal reproducing apparatus (see fig. 1), comprising:

communicating means for communicating with said video signal reproducing apparatus which reproduces and outputs the video signal on the basis of time information corresponding to an edition unit of said video signal (see col. 4 lines 22-29);

control means for allowing said communicating means to communicate with said video signal reproducing apparatus, obtaining said time information on said video signal reproducing apparatus and controlling said video signal reproducing apparatus so as to reproduce the video signal on the basis of said time information (see fig. 4 direct control circuit (15), claim 1, abstract, col. 2 lines 4-16, and col. 4 lines 53-65);

video signal processing means for performing a predetermined process on the basis of said time information to said video signal outputted from said video signal reproducing apparatus on the basis of the control by said control means (see col. 2 lines 4-16 and col. 7 lines 28-42);

and

recording means for recording said video signal subjected to said predetermined process by said video signal processing means (see claims 28-30),

wherein said control means obtains said time information on said video signal reproducing apparatus at a period longer than said edition unit (see col. 7 lines 53-58).

Regarding claim 2, Niwa discloses control means allows said communicating means to make the communication, obtains a current state of said video signal reproducing apparatus, and sets said period for obtaining said time information from said video signal reproducing apparatus in accordance with said obtained current state (see claims 12 and 30 and col. 4 lines 32-41).

Regarding claim 3, Niwa discloses reference signal receiving means for receiving a reference signal which is shared by said video signal reproducing apparatus (see col. 4 lines 53-65 and claim 20),

and wherein said control means presumes said time information on said video signal reproducing apparatus on said edition unit basis (see claim 13)

by using said time information on said video signal reproducing apparatus obtained by making the communication by said communicating means and said reference signal received by said reference signal receiving means (see col. 3 lines 36-45 and col. 5 line 65-col. 6 line 4).

Regarding claim 4, Niwa discloses another communicating means for communicating with a host controller (see fig. 4);

memory means for holding said time information on said video signal reproducing apparatus which was obtained by making the communication by said communicating means (see col. 2 lines 32-52);

reference signal receiving means for receiving a reference signal which is shared by said video signal reproducing apparatus (see claim 1),

and wherein when said time information on said video signal reproducing apparatus is requested from said host controller through said another communicating means, said control means directly responds to said host controller on the basis of said time information held in said memory means without allowing said communicating means to communicate with said video signal reproducing apparatus (see claim 12 and col. 4 lines 32-41).

Regarding claim 5, Niwa discloses a current state on said video signal reproducing apparatus which was obtained by making the communication by said communicating means is further held in said memory means (see col. 7 lines 28-42 and claims 12 and 24), and when said time information on said video signal reproducing apparatus is requested from said host controller through said another communicating means said control means directly responds to said host controller on the basis of said current state and said time information held in said memory means without allowing said communicating means to communicate with said video signal reproducing apparatus (see claims 12 and 30, and col. 4 lines 32-41).

The limitations of claims 6-10 can be found in claims 1-5. Therefore claims 6-10 are analyzed and rejected for the same reason as discussed in claims 1-5 above.

Method claims 11-15 are rejected for the same reason as discussed in claims 1-5 above.

The limitations of claims 16-20 can be found in claims 1-5. Therefore claims 16-20 are analyzed and rejected for the same reason as discussed in claims 1-5 above.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2, 6-7, 11-12, and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Tomoda (US Pat. No. 4,916,682).

Regarding claim 1, Tomoda discloses a video server which can accumulatively record a video signal reproduced by a video signal reproducing apparatus, comprising:

communicating means for communicating with said video signal reproducing apparatus which reproduces and outputs the video signal on the basis of time information corresponding to an edition unit of said video signal (see claim 1);

control means for allowing said communicating means to communicate with said video signal reproducing apparatus, obtaining said time information on said video signal reproducing apparatus and controlling said video signal reproducing apparatus so as to reproduce the video signal on the basis of said time information (see fig. 1 control section (23), claim 2, and col. 4 lines 32-53);

video signal processing means for performing a predetermined process on the basis of said time information to said video signal outputted from said video signal reproducing apparatus on the basis of the control by said control means (see col. 3 line 60-col. 4 line 18 and claim 1); and

recording means for recording said video signal subjected to said predetermined process by said video signal processing means (see col. 4 lines 32-39, col. 5 line 65-col. 6 line 8),

wherein said control means obtains said time information on said video signal reproducing apparatus at a period longer than said edition unit (see col. 4 lines 2-19, using the key the period is specified).

Regarding claim 2, Tomoda discloses control means allows said communicating means to make the communication, obtains a current state of said video signal reproducing apparatus, and sets said period for obtaining said time information from said video signal reproducing apparatus in accordance with said obtained current state (see col. 4 line 58-col. 5 line 9).

Claims 6-7, 11-12, and 16-17 are rejected for the same reason as discussed in claims 1-2 above.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELEN SHIBRU whose telephone number is (571) 272-7329. The examiner can normally be reached on M-F, 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MEHRDAD DASTOURI can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Helen Shibru  
February 27, 2006

*Robert Chval*  
FEB 27 2006  
USPTO-PTO